

ASSEMBLY BILL

No. 822

Introduced by Assembly Member Block

February 17, 2011

An act to add Part 70 (commencing with Section 101100) to Division 14 of Title 3 of the Education Code, relating to education facilities, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds.

LEGISLATIVE COUNSEL'S DIGEST

AB 822, as introduced, Block. Public postsecondary education facilities: Kindergarten-University Public Education Facilities Bond Act of 2012.

Existing law, the California Constitution, prohibits the Legislature from creating a debt or liability that singly or in the aggregate with any previous debts or liabilities exceeds the sum of \$300,000, except by an act that (1) authorizes the debt for a single object or work specified in the act, (2) has been passed by a $\frac{2}{3}$ vote of all the members elected to each house of the Legislature, (3) has been submitted to the people at a statewide general or primary election, and (4) has received a majority of all the votes cast for and against it at that election.

Existing law, the Kindergarten-University Public Education Facilities Bond Act of 2006, authorizes \$10,416,000,000 of state general obligation bonds to provide aid to school districts, county superintendents of schools, county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.

This bill would enact the Kindergarten-University Public Education Facilities Bond Act of 2012 to authorize an unspecified sum of state general obligation bonds to provide aid to the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.

The bond act would become operative only if approved by the voters at the November 6, 2012, statewide general election, and would provide for its submission to the voters at that election.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. It is the intent of the Legislature that this act enact
2 the Kindergarten-University Public Education Facilities Bond Act
3 of 2012 to authorize the amount of ____ dollars (\$____) of state
4 general obligation bonds to provide aid to the California
5 Community Colleges, the California State University, the
6 University of California, and the Hastings College of the Law.

7 SEC. 2. Part 70 (commencing with Section 101100) is added
8 to Division 14 of Title 3 of the Education Code, to read:
9

10 PART 70. KINDERGARTEN-UNIVERSITY PUBLIC
11 EDUCATION FACILITIES BOND ACT OF 2012
12

13 CHAPTER 1. GENERAL
14

15 101100. This part shall be known, and may be cited, as the
16 Kindergarten-University Public Education Facilities Bond Act of
17 2012.

18 101101. The incorporation of, or reference to, any provision
19 of California statutory law in this part includes all acts amendatory
20 thereof and supplementary thereto.

21 101102. (a) Bonds in the total amount of ____ dollars (\$____),
22 not including the amount of any refunding bonds issued in
23 accordance with Sections 101134, 101139, and 101159, or so much
24 thereof as is necessary, may be issued and sold to provide a fund
25 to be used for carrying out the purposes expressed in this part and
26 to reimburse the General Obligation Bond Expense Revolving

1 Fund pursuant to Section 16724.5 of the Government Code. The
2 bonds, when sold, shall be and constitute a valid and binding
3 obligation of the State of California, and the full faith and credit
4 of the State of California is hereby pledged for the punctual
5 payment of the principal of, and interest on, the bonds as the
6 principal and interest become due and payable.

7 (b) Pursuant to this section, the Treasurer shall sell the bonds
8 authorized by the State School Building Finance Committee
9 established by Section 15909 or the Higher Education Facilities
10 Finance Committee established pursuant to Section 67353, as the
11 case may be, at any different times necessary to service
12 expenditures required by the apportionments.

13
14 CHAPTER 2. CALIFORNIA COMMUNITY COLLEGE FACILITIES

15
16 Article 1. General

17
18 101132. (a) The 2012 California Community College Capital
19 Outlay Bond Fund is hereby established in the State Treasury for
20 deposit of funds from the proceeds of bonds issued and sold for
21 the purposes of this chapter.

22 (b) The Higher Education Facilities Finance Committee
23 established pursuant to Section 67353 is hereby authorized to create
24 a debt or debts, liability or liabilities, of the State of California
25 pursuant to this chapter for the purpose of providing funds to aid
26 the California Community Colleges.

27
28 Article 2. California Community College Program Provisions

29
30 101133. From the proceeds of bonds issued and sold pursuant
31 to Article 3 (commencing with Section 101134), the sum of ____
32 dollars (\$____) shall be deposited in the 2012 California
33 Community College Capital Outlay Bond Fund for the purposes
34 of this article. When appropriated, these funds shall be available
35 for expenditure for the purposes of this article.

36 101133.5. (a) Proceeds from the sale of bonds issued and sold
37 for the purposes of this article may be used for the following
38 purposes of the California Community Colleges:

39 (1) To fund construction on existing campuses, including the
40 construction of buildings and the acquisition of related fixtures.

1 (2) Construction of facilities that may be used by more than one
2 segment of public higher education.

3 (3) Renovation and reconstruction of facilities.

4 (4) Site acquisition.

5 (5) Equipping of new, renovated, or reconstructed facilities,
6 which equipment shall have an average useful life of 10 years.

7 (6) To provide funds for the payment of preconstruction costs,
8 including, but not limited to, preliminary plans and working
9 drawings for facilities.

10 (b) The purposes of this article include assisting in meeting the
11 capital outlay financing needs of the California Community
12 Colleges.

13
14 Article 3. California Community College Fiscal Provisions
15

16 101134. (a) Of the total amount of bonds authorized to be
17 issued and sold pursuant to Chapter 1 (commencing with Section
18 101100), bonds in the total amount of ____ dollars (\$____), not
19 including the amount of any refunding bonds issued in accordance
20 with Section 101139, or so much thereof as is necessary, may be
21 issued and sold to provide a fund to be used for carrying out the
22 purposes expressed in this chapter and to reimburse the General
23 Obligation Bond Expense Revolving Fund pursuant to Section
24 16724.5 of the Government Code. The bonds, when sold, shall be
25 and will constitute a valid and binding obligation of the State of
26 California, and the full faith and credit of the State of California
27 is hereby pledged for the punctual payment of the principal of, and
28 interest on, the bonds as the principal and interest become due and
29 payable.

30 (b) It is the intent of the Legislature that the California
31 Community Colleges annually consider, as part of their annual
32 capital outlay planning process, the inclusion of facilities that may
33 be used by more than one segment of public higher education, and,
34 that on or before May 15 of each year, those entities report their
35 findings to the budget committees of each house of the Legislature.

36 (c) Pursuant to this section, the Treasurer shall sell the bonds
37 authorized by the Higher Education Facilities Finance Committee
38 established pursuant to Section 67353 at any different times
39 necessary to service expenditures required by the apportionments.

1 101134.5. (a) The bonds authorized by this chapter shall be
2 prepared, executed, issued, sold, paid, and redeemed as provided
3 in the State General Obligation Bond Law (Chapter 4 (commencing
4 with Section 16720) of Part 3 of Division 4 of Title 2 of the
5 Government Code), and all of the provisions of that law, except
6 Section 16727 of the Government Code to the extent that it
7 conflicts with this part, apply to the bonds and to this chapter and
8 are hereby incorporated into this chapter as though set forth in full
9 within this chapter.

10 (b) For the purposes of the State General Obligation Bond Law,
11 each state agency administering an appropriation of the 2012
12 California Community College Capital Outlay Bond Fund is
13 designated as the “board” for projects funded pursuant to this
14 chapter.

15 (c) The proceeds of the bonds issued and sold pursuant to this
16 chapter shall be available for the purpose of funding aid to the
17 California Community Colleges for construction on existing or
18 new campuses, and their respective off-campus centers and joint
19 use and intersegmental facilities, as set forth in this chapter.

20 101135. The Higher Education Facilities Finance Committee
21 established pursuant to Section 67353 shall authorize the issuance
22 of bonds under this chapter only to the extent necessary to fund
23 the apportionments for the purposes described in this chapter that
24 are expressly authorized by the Legislature in the annual Budget
25 Act. Pursuant to that legislative direction, the committee shall
26 determine whether or not it is necessary or desirable to issue bonds
27 authorized pursuant to this chapter in order to carry out the
28 purposes described in this chapter and, if so, the amount of bonds
29 to be issued and sold. Successive issues of bonds may be authorized
30 and sold to carry out those actions progressively, and it is not
31 necessary that all of the bonds authorized to be issued be sold at
32 any one time.

33 101135.5. There shall be collected each year and in the same
34 manner and at the same time as other state revenue is collected,
35 in addition to the ordinary revenues of the state, a sum in an amount
36 required to pay the principal of, and interest on, the bonds each
37 year. It is the duty of all officers charged by law with any duty in
38 regard to the collection of the revenue to do and perform each and
39 every act which is necessary to collect that additional sum.

1 101136. Notwithstanding Section 13340 of the Government
2 Code, there is hereby appropriated from the General Fund in the
3 State Treasury, for the purposes of this chapter, an amount that
4 will equal the total of the following:

5 (a) The sum annually necessary to pay the principal of, and
6 interest on, bonds issued and sold pursuant to this chapter, as the
7 principal and interest become due and payable.

8 (b) The sum necessary to carry out Section 101137.5,
9 appropriated without regard to fiscal years.

10 101136.5. The board may request the Pooled Money Investment
11 Board to make a loan from the Pooled Money Investment Account
12 or any other approved form of interim financing, in accordance
13 with Section 16312 of the Government Code, for the purpose of
14 carrying out this chapter. The amount of the request shall not
15 exceed the amount of the unsold bonds that the committee, by
16 resolution, has authorized to be sold for the purpose of carrying
17 out this chapter. The board shall execute any documents required
18 by the Pooled Money Investment Board to obtain and repay the
19 loan. Any amounts loaned shall be deposited in the fund to be
20 allocated by the board in accordance with this chapter.

21 101137. Notwithstanding any other provision of this chapter,
22 or of the State General Obligation Bond Law, if the Treasurer sells
23 bonds pursuant to this chapter that include a bond counsel opinion
24 to the effect that the interest on the bonds is excluded from gross
25 income for federal tax purposes, subject to designated conditions,
26 the Treasurer may maintain separate accounts for the investment
27 of bond proceeds and for the investment earnings on those
28 proceeds. The Treasurer may use or direct the use of those proceeds
29 or earnings to pay any rebate, penalty, or other payment required
30 under federal law or take any other action with respect to the
31 investment and use of those bond proceeds required or desirable
32 under federal law to maintain the tax-exempt status of those bonds
33 and to obtain any other advantage under federal law on behalf of
34 the funds of this state.

35 101137.5. (a) For the purposes of carrying out this chapter,
36 the Director of Finance may authorize the withdrawal from the
37 General Fund of an amount not to exceed the amount of the unsold
38 bonds that have been authorized by the Higher Education Facilities
39 Finance Committee to be sold for the purpose of carrying out this
40 chapter. Any amounts withdrawn shall be deposited in the 2012

1 California Community College Capital Outlay Bond Fund
2 consistent with this chapter. Any money made available under this
3 section shall be returned to the General Fund, plus an amount equal
4 to the interest that the money would have earned in the Pooled
5 Money Investment Account, from proceeds received from the sale
6 of bonds for the purpose of carrying out this chapter.

7 (b) Any request forwarded to the Legislature and the Department
8 of Finance for funds from this bond issue for expenditure for the
9 purposes described in this chapter by the California Community
10 Colleges shall be accompanied by the five-year capital outlay plan
11 that reflects the needs and priorities of the community college
12 system and is prioritized on a statewide basis. Requests shall
13 include a schedule that prioritizes the seismic retrofitting needed
14 to significantly reduce, in the judgment of the particular college,
15 seismic hazards in buildings identified as high priority by the
16 college.

17 101138. All money deposited in the 2012 California
18 Community College Capital Outlay Bond Fund that is derived
19 from premium and accrued interest on bonds sold shall be reserved
20 in the fund and shall be available for transfer to the General Fund
21 as a credit to expenditures for bond interest.

22 101139. The bonds may be refunded in accordance with Article
23 6 (commencing with Section 16780) of Chapter 4 of Part 3 of
24 Division 4 of Title 2 of the Government Code, which is a part of
25 the State General Obligation Bond Law. Approval by the voters
26 of the state for the issuance of the bonds described in this chapter
27 includes the approval of the issuance of any bonds issued to refund
28 any bonds originally issued under this chapter or any previously
29 issued refunding bonds.

30 101139.5. The Legislature hereby finds and declares that,
31 inasmuch as the proceeds from the sale of bonds authorized by
32 this chapter are not “proceeds of taxes” as that term is used in
33 Article XIII B of the California Constitution, the disbursement of
34 these proceeds is not subject to the limitations imposed by that
35 article.

CHAPTER 3. UNIVERSITY FACILITIES

Article 1. General

101140. (a) The system of public universities in this state includes the University of California, the Hastings College of the Law, and the California State University, and their respective off-campus centers.

(b) The 2012 University Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee, established pursuant to Section 67353, is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the Hastings College of the Law, and the California State University.

Article 2. Program Provisions Applicable to the University of California and the Hastings College of the Law

101141. From the proceeds of bonds issued and sold pursuant to Article 4 (commencing with Section 101150), the sum of _____ dollars (\$_____) shall be deposited in the 2012 University Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

101141.5. (a) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used for the following purposes of the University of California and the Hastings College of Law:

(1) To fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures.

(2) Construction of facilities that may be used by more than one segment of public higher education.

(3) Renovation and reconstruction of facilities.

(4) Site acquisition.

(5) Equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years.

1 (6) To provide funds for the payment of preconstruction costs,
2 including, but not limited to, preliminary plans and working
3 drawings for facilities.

4 (b) The purposes of this article include assisting in meeting the
5 capital outlay financing needs of the University of California and
6 the Hastings College of the Law.

7
8 Article 3. Program Provisions Applicable to the California State
9 University
10

11 101142. From the proceeds of bonds issued and sold pursuant
12 to Article 4 (commencing with Section 101150), the sum of ____
13 dollars (\$____) shall be deposited in the 2012 University Capital
14 Outlay Bond Fund for the purposes of this article. When
15 appropriated, these funds shall be available for expenditure for the
16 purposes of this article.

17 101142.5. (a) Proceeds from the sale of bonds issued and sold
18 for the purposes of this article may be used for the following
19 purposes of the California State University:

20 (1) To fund construction on existing campuses, including the
21 construction of buildings and the acquisition of related fixtures.

22 (2) Construction of facilities that may be used by more than one
23 segment of public higher education.

24 (3) Renovation and reconstruction of facilities.

25 (4) Site acquisition.

26 (5) Equipping of new, renovated, or reconstructed facilities,
27 which equipment shall have an average useful life of 10 years.

28 (6) To provide funds for the payment of preconstruction costs,
29 including, but not limited to, preliminary plans and working
30 drawings for facilities.

31 (b) The purposes of this article include assisting in meeting the
32 capital outlay financing needs of the California State University.

33
34 Article 4. University Fiscal Provisions
35

36 101150. (a) Of the total amount of bonds authorized to be
37 issued and sold pursuant to Chapter 1 (commencing with Section
38 101100), bonds in the amount of ____ dollars (\$____), not
39 including the amount of any refunding bonds issued in accordance
40 with Section 101159, or so much thereof as is necessary, may be

1 issued and sold to provide a fund to be used for carrying out the
2 purposes expressed in this chapter and to reimburse the General
3 Obligation Bond Expense Revolving Fund pursuant to Section
4 16724.5 of the Government Code. The bonds, when sold, shall be
5 and constitute a valid and binding obligation of the State of
6 California, and the full faith and credit of the State of California
7 is hereby pledged for the punctual payment of the principal of, and
8 interest on, the bonds as the principal and interest become due and
9 payable.

10 (b) It is the intent of the Legislature that the University of
11 California, the Hastings College of the Law, and the California
12 State University annually consider, as part of their annual capital
13 outlay planning process, the inclusion of facilities that may be used
14 by more than one segment of public higher education, and, that
15 on or before May 15 of each year, those entities report their
16 findings to the budget committees of each house of the Legislature.

17 (c) Pursuant to this section, the Treasurer shall sell the bonds
18 authorized by the Higher Education Facilities Finance Committee
19 established pursuant to Section 67353 at any different times
20 necessary to service expenditures required by the apportionments.

21 101151. (a) The bonds authorized by this chapter shall be
22 prepared, executed, issued, sold, paid, and redeemed as provided
23 in the State General Obligation Bond Law (Chapter 4 (commencing
24 with Section 16720) of Part 3 of Division 4 of Title 2 of the
25 Government Code), and all of the provisions of that law, except
26 Section 16727 of the Government Code to the extent that it
27 conflicts with this part, apply to the bonds and to this chapter and
28 are hereby incorporated into this chapter as though set forth in full
29 within this chapter.

30 (b) For the purposes of the State General Obligation Bond Law,
31 each state agency administering an appropriation of the 2012
32 University Capital Outlay Bond Fund is designated as the “board”
33 for projects funded pursuant to this chapter.

34 (c) The proceeds of the bonds issued and sold pursuant to this
35 chapter shall be available for the purpose of funding aid to the
36 University of California, the Hastings College of the Law, and the
37 California State University, for construction on existing or new
38 campuses, and their respective off-campus centers and joint use
39 and intersegmental facilities, as set forth in this chapter.

101152. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

101153. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

101154. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 101157, appropriated without regard to fiscal years.

101155. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

1 101156. Notwithstanding any other provision of this chapter,
2 or of the State General Obligation Bond Law, if the Treasurer sells
3 bonds pursuant to this chapter that include a bond counsel opinion
4 to the effect that the interest on the bonds is excluded from gross
5 income for federal tax purposes, subject to designated conditions,
6 the Treasurer may maintain separate accounts for the investment
7 of bond proceeds and for the investment earnings on those
8 proceeds. The Treasurer may use or direct the use of those proceeds
9 or earnings to pay any rebate, penalty, or other payment required
10 under federal law or take any other action with respect to the
11 investment and use of those bond proceeds required or desirable
12 under federal law to maintain the tax-exempt status of those bonds
13 and to obtain any other advantage under federal law on behalf of
14 the funds of this state.

15 101157. (a) For the purposes of carrying out this chapter, the
16 Director of Finance may authorize the withdrawal from the General
17 Fund of an amount not to exceed the amount of the unsold bonds
18 that have been authorized by the Higher Education Facilities
19 Finance Committee to be sold for the purpose of carrying out this
20 chapter. Any amounts withdrawn shall be deposited in the 2012
21 University Capital Outlay Bond Fund consistent with this chapter.
22 Any money made available under this section shall be returned to
23 the General Fund, plus an amount equal to the interest that the
24 money would have earned in the Pooled Money Investment
25 Account, from proceeds received from the sale of bonds for the
26 purpose of carrying out this chapter.

27 (b) Any request forwarded to the Legislature and the Department
28 of Finance for funds from this bond issue for expenditure for the
29 purposes described in this chapter by the University of California,
30 the Hastings College of the Law, or the California State University
31 shall be accompanied by the five-year capital outlay plan. Requests
32 forwarded by a university or college shall include a schedule that
33 prioritizes the seismic retrofitting needed to significantly reduce,
34 in the judgment of the particular university or college, seismic
35 hazards in buildings identified as high priority by the university
36 or college.

37 101158. All money deposited in the 2012 University Capital
38 Outlay Bond Fund that is derived from premium and accrued
39 interest on bonds sold shall be reserved in the fund and shall be

1 available for transfer to the General Fund as a credit to expenditures
2 for bond interest.

3 101159. The bonds may be refunded in accordance with Article
4 6 (commencing with Section 16780) of Chapter 4 of Part 3 of
5 Division 4 of Title 2 of the Government Code, which is a part of
6 the State General Obligation Bond Law. Approval by the voters
7 of the state for the issuance of the bonds described in this chapter
8 includes the approval of the issuance of any bonds issued to refund
9 any bonds originally issued under this chapter or any previously
10 issued refunding bonds.

11 101160. The Legislature hereby finds and declares that,
12 inasmuch as the proceeds from the sale of bonds authorized by
13 this chapter are not “proceeds of taxes” as that term is used in
14 Article XIII B of the California Constitution, the disbursement of
15 these proceeds is not subject to the limitations imposed by that
16 article.

17 SEC. 3. Section 2 of this act shall be submitted to the voters
18 at the November 6, 2012, statewide general election, in accordance
19 with provisions of the Government Code and the Elections Code
20 governing the submission of a statewide measure to the voters.

21 SEC. 4. Section 2 of this act shall take effect only upon the
22 approval by the voters of the Kindergarten-University Public
23 Education Facilities Bond Act of 2012, as set forth in that section
24 at the November 6, 2012, statewide general election.